

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Nan R. Nolan	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	98 C 7599	DATE	5/3/2001
CASE TITLE	Charles Coleman vs. ANR-Advance, et al.		

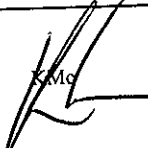
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due ____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion and Order: This matter is before the Court on The Coastal Corporation's Bill of Costs. Coastal is entitled to \$3,378.25 in costs.
- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials 	ED-7 FILED FOR DOCKETING 01 MAY -3 PM 2:38	3	Document Number 97
			number of notices	
			MAY 04 2001 date docketed	
			docketing deputy initials	
			5/3/2001 date mailed notice	
			KMc mailing deputy initials	

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MAY 04 2001.

Magistrate Judge Nan R. Nolan

Coleman argues that he should be excused from paying Coastal's costs because he is proceeding in forma pauperis. The Seventh Circuit has held that an award of costs to the prevailing party is proper even when the unsuccessful party was allowed to proceed in forma pauperis. McGill v. Faulkner, 18 F.3d 456, 460 (7th Cir. 1994) (stating "McGill should not be shielded from the costs he forced the defendants to incur with his suit even if he was and is presently indigent."). Coleman must provide sufficient evidence of inability to pay to overcome the presumption that Coastal is

entitled to costs. Corder v. Lucent Technologies, Inc., 162 F.3d 924, 929 (7th Cir. 1998). Coleman has not demonstrated that he should be excused from paying costs. Although Coleman states that he is unemployed and has no income, he fails to explain how he supports himself or whether he owns any property or other assets. Coleman must also show that he could not afford to pay these costs in the future. Coleman does not claim that he will be unable to pay the costs in the future, nor has he established that he has no likely prospects of obtaining employment in the future. Finally, this is not a case where the ruling on the merits of Coastal's summary judgment motion was a close call. Accordingly, the Court refuses to exercise its discretion to waive assessment of costs.

Recoverable costs are listed in 28 U.S.C. § 1920. Courts may not award costs not authorized by statute. Barber v. Ruth, 7 F.3d 636, 644 (7th Cir. 1993). Coleman objects to the costs incurred in taking his deposition on May 15 and 16, 2000. Under section 1920(2), costs for deposition transcripts may be awarded only upon a showing that they were "necessarily obtained for use in the case." Id. at 645. Coleman correctly points out that his deposition was not necessary to Coastal's successful summary judgment motion. However, on April 11, 2000, before Coastal's summary judgment motion was fully briefed, Judge Alesia ordered discovery closed on May 22, 2000. Given the imminent discovery deadline and the fact that the Court had not ruled on Coastal's summary judgment motion, Coleman's deposition was reasonably necessary to Coastal's defense of the case. Barber, 7 F.3d at 645 (stating "the determination of necessity must be made in light of the facts known at the time of the deposition.").

The Court has reviewed Coastal's Bill of Costs and determines that the total allowable costs for deposition transcripts is \$2350.00, which is Coastal's request reduced to the per page rate of \$3.00 and minus ASCII disk costs and costs for condensed transcripts. Winfrey v. City of Chicago, 2000 WL 1222152, *3 (N.D. Ill. Aug. 22, 2000) (holding costs for condensed transcripts are not

recoverable); Jones v. Bd. of Trustees of Community College District No. 508, 197 F.R.D. 363, 364 (N.D. Ill. 2000) (stating defendant not entitled to recover charge for ASCII diskettes of deposition transcripts as costs). Local Rule 54.1(b) provides that the rate for reimbursement of deposition copies shall not exceed the regular rates established by the Judicial Conference of the United States, which has established maximum copy rates of \$3.00 per page for the original transcript. See Volume VI Judicial Conference of the United States, Guide to Judiciary Policies and Procedures, Court Reporters' Manual, ch. 20, pt. 20.3 (1998) (setting forth the prices per page for transcripts).

Coastal seeks \$1,028.25 in copying costs. Section 1920(4) allows costs for "copies of papers necessarily obtained for use in the case." 28 U.S.C. § 1920(4). Coastal's Bill of Costs provides information concerning the cost per page, number of pages copied, and the date the copies were made. This description is adequate to support a bill of costs. Northbrook Excess and Surplus, 924 F.2d 633, 634 (7th Cir. 1991) (upholding award of photocopying costs where description failed to identify the documents copied, the number of copies made, or the costs per page). Fifteen cents per page is a reasonable in-house copying charge. Allscripts Pharmaceuticals, Inc., 1998 WL 1110062, *3 (N.D. Ill. June 10, 1998). Coastal is awarded its total photocopying costs.

Coastal also seeks \$174.00 in costs for facsimile charges, \$179.31 for messenger charges, and \$90.82 for long distance telephone calls. Such costs are not mentioned in section 1920 and are not allowable. El-Fadl v. Central Bank of Jordan, 163 F.R.D. 389, 390 (D.D.C. 1995) (stating "[T]he overwhelming weight of authority have declined to award costs for courier services, postage, telephone or fax charges."). The Court also rejects Coastal's request for \$151.44 in Federal Express charges. Amati v. City of Woodstock, 1998 WL 299362, *5 (N.D. Ill. May 27, 1998) (disallowing Federal Express charges). Coastal seeks \$295.93 in costs associated with computer legal research. Computer legal research expenses are not on the list of taxable costs in Section 1920 and such

expenses will not be allowed. Wood v. Kidder, Peabody & Co., 1992 WL 114948, *2 (N.D. Ill. May 20, 1992). Finally, Section 1920 does not include any of the items Coastal lists as miscellaneous expenses (cab fares, retrieval fee for bankruptcy documents, meals, and parking) as taxable costs. These costs will not be allowed.

Based on the foregoing, Coastal is entitled to \$3378.25 in costs.

ENTER:

Nan R. Nolan

Nan R. Nolan
United States Magistrate Judge

Dated: *May 3, 2001*